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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,406	02/06/2004	Gregor Fischer	080437.52819US	5033

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EXAMINER

LEUNG, RICHARD L

ART UNIT PAPER NUMBER

3744

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,406

Applicant(s)

FISCHER ET AL.

Examiner

Richard L. Leung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5 and 7-20 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawing, received on 24 June 2005, is objected to as failing to comply with 37 CFR 1.84(u)(1) because where only a single view is used in an application to illustrate the claimed invention, it must not be numbered and the abbreviation "FIG." must not appear. To overcome this objection, Applicant is advised to remove the "FIG. 1" label on the drawing and to replace any recitations of "FIG. 1" with the phrase --the Figure-- in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

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2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 15, 18, and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As amended, independent claim 10 now requires the recited pressure differential generator to generate a pressure differential between the capsule interior space and a space exterior to the capsule with an exhaust gas of an internal combustion engine. Claim 15, which depends from claim 10, recites that the pressure differential generator is one of a blower or pump arranged outside the capsule. However, it was never described in the specification that the blower or pump generates the pressure differential with an exhaust gas of an internal combustion engine. Likewise, claims 18 and 19, which depend from claim 10, recite that the pressure differential generator is the capsule itself. However, it was never described in the specification that the capsule generates the pressure differential with an exhaust gas of an internal combustion engine. Therefore claims 15, 18 and 19 fail to comply with the written description requirement. These rejections may be overcome by explicitly demonstrating where proper support for these claims, as dependent from amended claim 10, may be found in the specification.

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 5, 7-14, 16, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2889955 (Naulty et al.) in view of US 5540208 (Kikutani). Naulty et al. disclose a method and system for venting an interior space of a capsule (enclosing compartment) 30 of a vehicle liquid fuel tank system comprising generating a pressure differential between the capsule interior space (compartment space) 31 and a space exterior of the capsule 30, where the capsule interior space 31 is a space between an inside wall of the capsule 30 and an outside wall of a storage container (tank) 25 therein, applying the pressure differential to a gas in the capsule interior space 31 with a rinsing medium to cause a gas in the capsule interior space 31 to be exhausted from the capsule 30 through outlet tube 46, wherein the rinsing medium is an inert exhaust gas from vehicle internal combustion engine 11. Naulty discloses that the venting is performed when at least one boundary condition is satisfied, specifically when the combustible content in the capsule interior space 31 reaches a predetermined fuel percentage. Refer particularly to the paragraph beginning on column 2, line 71 and to Figure 1. Naulty et al. fail to disclose that the gas from the capsule interior space 31 is treated to reduce its environmental impact, particularly through burning the gas or catalytic oxidation of the gas, and fail to expressly disclose a gas treatment device for treating the gas, particularly a burner such as an internal combustion engine or catalytic

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oxidizer. Kikutani teaches a liquefied gas fuel supply system and discloses a method for treating the gas vented from a capsule (tank) 1 of a vehicle cryo fuel tank system comprising the acts of treating the exhausted gas from the capsule 1 through burning and catalytic oxidation of the gas using a catalytic burner 26 to reduce its environmental impact. Refer particularly to column 4, lines 41-52 and column 5, lines 39-55.

Additionally, Kikutani teaches that the gas exhausted from capsule 1 may be used as fuel for the vehicle and burned in an internal combustion engine. See particularly column 7, lines 46-67. At the time the invention was made it would have been obvious to one of ordinary skill in the art to have modified the method and system disclosed by Naulty et al. to include treating the gas exhausted from the capsule interior space through the use of a catalytic oxidizer or the internal combustion engine to burn the gas as demonstrated by Kikutani because doing so would prevent the release of potentially hazardous fuel vapors into the environment. Such a modification, for example, could have been accomplished by having outlet pipe 46 of Naulty et al. direct the exhausted gas to a catalytic burner, such as the one taught by Kikutani, or by directing the exhausted gas to internal combustion engine 11 for consumption as fuel.

Allowable Subject Matter

6. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 5, and 7-20 have been considered but are not persuasive in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

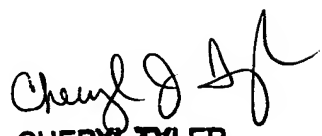
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Leung whose telephone number is 571-272-4811. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Leung
Examiner
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CHERYL TYLER
SUPERVISORY PATENT EXAMINER

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